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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,946	10/15/2003	John J. Toben	6006-152-1	7654

7590 06/25/2004

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EXAMINER

JIMENEZ, MARC QUEMUEL

ART UNIT

PAPER NUMBER

3726

DATE MAILED: 06/25/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/685,946

Applicant(s)

TOBEN ET AL.

Examiner

Marc Jimenez

Art Unit

3726

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: ____.

DETAILED ACTION

Drawings

1. Figure 1 should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawing sheets are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.
2. New corrected drawings are required in this application because the drawings submitted 10/15/03 are informal. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Art Unit: 3726

4. Claims 3 and 4 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 3 recites “said key guide is longitudinally formed on each of said first pinch rod, said second pinch rod and said radius rod”. This limitation is unclear because in reading the claim, it appears that one key guide is connected to each of the rods. There is no previous recitation that there are a plurality of key guides.

Claim 4 recites “said roller is mounted onto each of said first pinch rod, said second pinch rod and said radius rod”. This limitation is unclear because in reading the claim, it appears that one roller is connected to each of the rods. There is no previous recitation that there are a plurality of rollers.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. **Claims 1, 5, 10, 14, and 19** are rejected under 35 U.S.C. 102(b) as being anticipated by Frey (4,850,212).

Frey teaches a roller assembly for processing a substantially planar workpiece 1800, the

Art Unit: 3726

roller assembly comprising: a first pinch rod **860B**; a second pinch rod **810B** mounted in opposition to the first pinch rod **860B**, the workpiece **1800** passing between the first pinch rod **860B** and the second pinch rod **810B**; a radius rod **850A** mounted adjacent to the first pinch rod **860B** and the second pinch rod **810B**, the radius rod **850A** being selectively displaceable (fig. 5) with respect to the first **650B** and second **810B** pinch rods to contact the workpiece **1800** after the workpiece **1800** has passed between the first **860B** and second **810B** pinch rods, the radius rod **850A** conferring thereby a predetermined radius of curvature to the workpiece **1800**; and a roller mounted **850B** onto one of the first pinch rod **860B**, the second pinch rod **810B** and the radius rod **850A**, the roller **850B** being selectively positionable along one of the first pinch rod, the second pinch rod and the radius rod. As shown in fig. 4, the roller **850B** is made of separate elements from the rod **860B** as evident from the hash marked hidden lines. Therefore, the roller **850B** is considered to be “selectively positionable”.

Regarding claim 5, note the threaded adjustment assembly (for example **970A** in fig. 5).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. **Claims 2-4 and 11-13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey in view of Lakin (3,111,742).

Frey teaches the invention cited with the exception of the roller including a key groove for accommodating an outwardly extending key guide provided on the rod.

Lakin teaches a roller **19** including a key groove **23** for accommodating an outwardly extending key guide **11** provided on a rod **10**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Frey with a key groove for accommodating an outwardly extending key guide provided on the rod, in light of the teachings of Lakin, in order to prevent relative rotational movement between the rod and roller.

9. **Claims 6, 7, 15, and 16** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey in view of Hahnemann (1,735,243).

Frey teaches an automatic drive means **1240** instead of having a handle assembly for providing the drive force and having a gear train.

Hahnemann teaches a handle assembly **27** for providing a drive force and a gear train **70**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Frey with a handle assembly for providing a drive force, in light of the teachings of Hahnemann, in order to save electricity used to power the roller assembly.

10. **Claims 8, 9, 17, and 18** are rejected under 35 U.S.C. 103(a) as being unpatentable over Frey in view of Aitken (1,114,426).

Frey teaches the invention cited with the exception of the roller including a radially

Art Unit: 3726

formed aperture.

Aitken teaches a roller **b** with a radially formed aperture **g**.

It would have been obvious to one of ordinary skill in the art, at the time of the invention, to have provided the invention of Frey with a radially formed aperture, in light of the teachings of Aitken, in order to securely fasten the roller to the rod.

Regarding claims 10 and 18, Frey/Aitken teach the invention cited with the exception of having threads to secure the roller to the rod. Official notice is taken that it was well known to a person of ordinary skill in the art, at the time of the invention, to have provided the invention of Frey/Aitken with threads in the radially formed aperture, in order to even more securely fasten the assembly including the fastener, rod, and roller.

Contact Information

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marc Jimenez whose telephone number is (703) 306-5965. The examiner can normally be reached on Monday-Friday between 5:30 a.m.-2:00 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Peter Vo can be reached on (703) 308-1789. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3726

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in black ink, appearing to read "Marc Jimenez", with a stylized, flowing script.

Marc Jimenez
Patent Examiner
AU 3726

MJ

June 22, 2004